

EXHIBIT D

THE MILKEN SENTENCE;
Milken Gets 10 Years for Wall St. Crimes

The New York Times

November 22, 1990, Thursday, Late Edition - Final

Copyright 1990 The New York Times Company

Distribution: Financial Desk

Section: Section A;; Section A; Page 1; Column 6; Financial Desk; Column 6;

Length: 1895 words

Byline: By KURT EICHENWALD

By KURT EICHENWALD

Body

Michael R. Milken, the once-powerful financier who came to symbolize a decade of excess, was sentenced to 10 years in prison yesterday for violating Federal securities laws and committing other crimes.

The sentence, handed down by Federal District Judge Kimba M. Wood in Manhattan, was the longest received by any executive caught up in the Wall Street scandals that began to unfold in 1986, and many legal experts and people on Wall Street expressed surprise at its severity.

But Judge Wood left open the possibility that Mr. Milken could be eligible for parole at any time during his sentence and that his sentence could be reduced if he cooperated in future investigations. Some legal experts said they did not expect him to be paroled until he served at least a third of the prison term.

Three Years of Probation

After Mr. Milken serves his term he faces a three-year period of probation. Mr. Milken, who paid \$600 million in fines and restitution when he pleaded guilty to the violations, will also be required to perform 1,800 hours of community service during each of three years of probation, or a total of 5,400 hours.

Judge Wood said the former financier had to be sentenced to a long jail term to send a message to the financial community, and also because he chose to break the law despite his advantages of position and intelligence.

"When a man of your power in the financial world, at the head of the most important department of one of the most important investment banking houses in this country, repeatedly conspires to violate, and violates, securities and tax laws in order to achieve more power and wealth for himself and his wealthy clients, and commits financial crimes that are particularly hard to detect, a significant prison term is required," she said.

A Lengthy Investigation

The sentencing of Mr. Milken closes the most significant chapter of the longest investigation ever of crime on Wall Street. Over four years, numerous top Wall Street executives confessed to criminal activities and testified for the Government. But Mr. Milken did not cooperate with the inquiry and admitted his guilt only last April,

THE MILKEN SENTENCE;Milken Gets 10 Years for Wall St. Crimes

As head of the "junk bond" operations of Drexel Burnham Lambert Inc., which collapsed earlier this year, Mr. Milken financed some of the largest corporate takeovers in the 1980's. He pioneered the use of high-yield, high-risk junk bonds as instruments for corporate warfare, successfully convincing investors that the bonds' high returns more than compensated for the risk that the issuers would default.

The sentence came at the end of a highly emotional hearing, in which Mr. Milken frequently broke into tears as he listened to one of his lawyers plead for leniency.

Dressed in a gray suit and red tie, Mr. Milken made only one comment during the proceeding, tearfully telling Judge Wood: "What I did violated not just the law but all of my principles and values. I deeply regret it, and will for the rest of my life. I am truly sorry."

Mr. Milken stood ramrod straight and did not flinch when the sentence was handed down. His lawyers and family, as well as the others in the courtroom, seemed momentarily stunned by the sentence.

When the hearing ended, Mr. Milken's wife, Lori, and other family members came to his side. They quickly left the courtroom, and cries of sorrow were heard inside the court after the door closed behind them.

One Lawyer's Reaction

Lawyers and legal experts also expressed surprise. "This is an incredibly long sentence," said Michael Feldberg, a partner at Shea & Gould. "If there is a message to be gained from this experience, it is, at least for this judge, cooperation is enormously important."

In his settlement, Mr. Milken had agreed to respond truthfully to any questions asked him by the Government after he is sentenced. Judge Wood said that if that testimony proves to be valuable in future investigations, she would consider reducing the sentence. Mr. Milken's lawyers have 120 days in which to make a motion for a reduction of sentence, lawyers said.

A number of the lawyers who expressed surprise at the sentence noted that Judge Wood had discounted many of the most important charges made by the Government against Mr. Milken in a pre-sentencing hearing held last month.

Judge Wood said yesterday that although she did not accept that Mr. Milken committed insider trading or manipulated a particular security, as the Government tried to prove, she believed that the former financier had tried to prevent investigators from uncovering his crimes by suggesting to subordinates that they dispose of important documents. She also said she believed that Mr. Milken had misled a client.

Some See Vindication

Government officials indicated that the sentence was a vindication of the four-year inquiry into Mr. Milken's practices in the financial markets.

"This sentence should send the message that criminal misconduct in our financial markets will not be tolerated, regardless of one's wealth or power," said Richard C. Breeden, the chairman of the Securities and Exchange Commission.

Mr. Milken agreed to plead guilty in April to six felonies. He admitted to a conspiracy between himself and two clients, Ivan F. Boesky and David Solomon, the manager of an investment fund. Mr. Milken pleaded guilty to hiding stock for Mr. Boesky to allow the speculator to file false information with the Government, and at another time to allow him to avoid minimum capital requirements for a stock-trading firm.

Mr. Milken also agreed to make up any losses that Mr. Boesky might suffer from buying stock from a Drexel client who was trying to unload the securities, without recording the promise on Drexel's books.

THE MILKEN SENTENCE;Milken Gets 10 Years for Wall St. Crimes

With Mr. Solomon, Mr. Milken reached an agreement to charge the money manager's fund a fraction of a point more on certain purchases he made to recoup the 1 percent commission paid to Drexel salesman. He also engaged in trades with Mr. Solomon that allowed the money manager to illegally claim false losses on his income-tax returns.

28 Years Was Possible

Mr. Milken had faced a maximum of 28 years in prison, but few legal experts were estimating that his sentence would exceed 8 years. He was ordered to report to Federal custody on March 4, 1991. A prison was not designated.

Mr. Milken's lawyer, Arthur L. Liman, spoke first at the proceeding yesterday, asking Judge Wood to sentence his client only to a term of community service, saying the crimes were "deviations" by Mr. Milken.

Mr. Liman repeatedly stressed that his client was not a criminal on a par with Mr. Boesky, the stock speculator whose settlement of insider trading charges in 1986 and subsequent cooperation with the Government helped expose the Wall Street scandals.

"Two conflicting pictures have been presented of Michael Milken," Mr. Liman said. "The Government, which has not spent time with him, tries to cast him in the Boesky mold, but I would say to Your Honor that that template does not fit."

Mr. Boesky, who pleaded guilty to filing a false statement with the Securities and Exchange Commission, was sentenced in 1987 to three years in prison. He was released on parole this year.

Charitable Work Described

Mr. Liman described Mr. Milken's philanthropic works, both in giving money and personal time. He said Mr. Milken had contributed more than \$360 million to charity, and Mr. Liman read numerous letters from people who said they had been personally helped by the financier.

During the reading of the first of those letters, from a mother whose child was injured in an accident, Mr. Milken brought his hand up to his face, and, pinching the bridge of his nose with his fingers, began to sob quietly.

Mr. Liman added that he could not explain why his client had committed his crimes. "I am not a psychiatrist," he said. "I have worked very closely with Michael, and I can't offer an explanation as to how Michael slipped."

In his response, Jess Fardella, an assistant United States attorney, said Mr. Milken was a brilliant and decent man, but added that because of that, his crimes should be judged in a harsher light.

The Government's Viewpoint

That perspective, Mr. Fardella said, showed that Mr. Milken had abused his advantages and his position for personal benefit. "That the defendant was blessed with intelligence, energy, education and the support of family and friends makes his choice to engage in persistent violations of the law all the more inexcusable," he said. "Despite his talents and opportunities, Mr. Milken sought to multiply his success through the vehicle of criminal fraud."

Mr. Milken is acknowledged to be the highest-paid financier ever; he took home \$550 million in compensation from Drexel in 1987 alone. Yet Mr. Fardella said the financier committed his crimes out of desire for more money.

The prosecutor also argued that Mr. Milken's crimes should not be taken lightly just because there was not an immediately apparent victim, or because the violations were of such a complex nature.

THE MILKEN SENTENCE;Milken Gets 10 Years for Wall St. Crimes

"Such deceptive and unlawful practices inevitably have a corrosive effect on these markets," Mr. Fardella said. "Left unchecked and unpunished, they threaten the entire process of savings and capital formation."

The Deterrence Factor

Mr. Fardella also asked Judge Wood to consider the importance of sending a message to the financial community that would deter other criminal conduct.

In describing her reasoning, Judge Wood said yesterday that she did not find the Government's portrayal of Mr. Milken as "one of the most villainous criminals Wall Street ever produced" to be persuasive. But she also said she did not accept the defense position that Mr. Milken's crimes were aberrations in which he went beyond the law to help a client.

But, she said, "Your crimes show a pattern of skirting the law, stepping just over to the wrong side of the law in an apparent effort to get some of the benefits of violating the law without running a substantial risk of being caught."

Judge Talks of Misconceptions

Judge Wood said she wanted to separate the issues in the case from "misconceptions" that she said were held by some in the general public.

Letters from private citizens to the judge "reflect a perception that we as a society must find those responsible for the alleged abuses of the 1980's," she said, adding, "These writers ask for a verdict on a decade of greed."

But Judge Wood said that she could not consider such issues in the case against Mr. Milken because they involved suppositions about his character and his actions.

At the same time, Judge Wood said she would reject defense arguments that she should consider that Mr. Milken was in possession of more inside information than any executive on Wall Street, and yet no finding had been made by the court that he had traded illegally on that information.

Immediately before sentencing Mr. Milken, Judge Wood praised him for his generous nature, adding that she hoped he would continue on that path.

"You are unquestionably a man of talent and industry and you have consistently shown a dedication to those less fortunate than you," the judge said. "It is my hope that the rest of your life you will fulfill the promise shown early in your career."

Graphic

Photo: **Michael R. Milken** arriving yesterday with his wife, Lori, for his sentencing in United States District Court in Manhattan. (Associated Press)

Load-Date: November 22, 1990

End of Document